

Appln. No. 10/551,263
Amd. dated March 8, 2011
Reply to Office Action of December 8, 2010

REMARKS

The Office Action has been carefully reviewed. Claims 6-7, 16 and 17 are allowed. Claims 6-8, 16, 17, 21 and 23 presently appear in this application, with claim 23 being withdrawn, and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Claim 21 has been rejected under 35 U.S.C. §112, first paragraph, because the specification is held to be only enabled for use of the instantly claimed modified SEB mutants for treating rheumatoid arthritis and collagen induced arthritis but not enabled for the retention of a therapeutic effect to any immunopathy equivalent to that of naturally occurring SEB. This rejection is obviated by the amendment to claim 21 to be directed to rheumatoid arthritis that has been indicated by the examiner as being enabled.

Reconsideration and withdrawal of the rejection are therefore respectfully requested.

Claim 8 has been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 of copending application no. 12/644,952. As claim 4 of copending application no. 12/644,952 is cancelled and a notice of allowance dated January 18, 2011, has now been received in that application, this provisional rejection should be withdrawn

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as the patent issuing from application no. 12/644,952 will not have the allegedly conflicting claim 4.

Reconsideration and withdrawal of this provisional rejection are therefore respectfully requested.

As claim 21 is now believed to be allowable, rejoinder of withdrawn process/method claim 23, which depends from product claim 21 and is directed to treating the enabled indication of rheumatoid arthritis, is respectfully requested.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,
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